

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

|                           |   |                       |
|---------------------------|---|-----------------------|
| CLIFFORD DURHAM, JR.,     | : | MOTION TO VACATE      |
|                           | : | 28 U.S.C. § 2255      |
| Movant,                   | : |                       |
|                           | : | CRIMINAL ACTION NO.   |
| vs.                       | : | 1:96-CR-0448-CC-RGV-1 |
|                           | : |                       |
| UNITED STATES OF AMERICA, | : | CIVIL ACTION NO.      |
|                           | : | 1:19-CV-2279-CC-RGV   |
| Respondent.               | : |                       |

**ORDER**

This matter is before the Court on the Final Report and Recommendation (the “R&R”) [Doc. No. 48] issued by Magistrate Judge Russell G. Vineyard on August 1, 2019. Magistrate Judge Vineyard recommends that this action be dismissed pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings. The record reflects that no objections to the R&R have been filed and that the time period permitted for filing any such objections has elapsed.

Having reviewed the R&R for plain error in accordance with United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983), the Court finds that the R&R is correct both in fact and in law. Accordingly, the Court **ADOPTS** the R&R [Doc. No. 48] as the opinion of this Court and **ORDERS** that Clifford Durham, Jr.’s § 2255 motion is **DISMISSED** as untimely. The Court **FURTHER DENIES** a certificate

of appealability, as the dismissal of the § 2255 motion as time barred is not debatable by jurists of reason.

SO ORDERED this 9th day of October, 2019.

s/ CLARENCE COOPER  
CLARENCE COOPER  
SENIOR UNITED STATES DISTRICT JUDGE